

**2:10-cr-8**

R. Allan Edgar, US District Judge

November 15, 2010 10:10 AM

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WESTERN DISTRICT OF MICHIGAN  
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To the Honorable Judge R. Allen Edgars:

→ Your consideration is requested in the following case, "The United States vs. Eric Dexter Welch".  
Please extend this kind consideration to "The State of Michigan vs. Eric Dexter Welch", from about May-August, 2007 as well.

The intention is to convey a set of opinions specifically about these two cases built on the same body of evidence in which I was involved and / or charged.

The opinions consist of statements taken from court records, and taken in context. The unfortunate aspect of my not being able to present these to you in person is respectfully requested to not detract from the sincere and truthful mentioning of them. Verbatim copies can be made available as I shall be paraphrasing them. Any opportunity to present in person prior to December 14, 2010 would be met ← with gratitude and acceptance.

The opinions for consideration are summarized below. The sources I trust you can relate to and consider as peers, or people you perhaps know personally. Subject matter is left out, for the most part, with Mark Dobias and Josh Hechman being entrusted with collecting and summarizing the more immediate, pressing case as part of their protocol efforts in pre-sentencing.

I understand thus far in my life that anyone can get indicted for anything. It is the first step in a process to vet out a set of activities and evidence. I may be incorrect, I often am, but I am inclined to believe a Grand Jury consists of at least a few judges or attorneys on a panel assigned to decide whether or not to indict, that is, to bring charges. I believe only partial facts were used to indict, not the whole truth. By this I mean specific, salient information withheld by the case agent seeking indictment from those whom it should be rightfully shared. Like any time something is sold on partial truth, others pay a hefty price. Additionally, his interview and testimony contained strategically placed falsehood. Mr.Dobias may provide summary, as this letter is not the appropriate venue for that.

Your peers I spoke of are more familiar with this case and its salient facts than the Grand Jury was. They provide a Low, Middle, and Higher level view. Once again, a summary only of these statements is provided with an outstanding request to Mr. Dobias to provide original transcripts for your review.

Low-level view: Honorable Judge Mark Wisti, Houghton and Keweenaw Counties

Mid-level view: Honorable Judge Garfield Hood retired, Circuit Court of Michigan

High-level view: Federal Court, Eastern District of Wisconsin, the Honorable Judge Patricia Gorence

For the "Low-Level View", Mark Wisti, in 2007 had yet to be named a District Court Judge for Houghton and Keweenaw counties. He had been my defense attorney and was "in the trenches" with the intimate details of the case.

Upon full disclosure of all evidence from the computer hard drive after Michigan State Police forensic examination, I quickly and emphatically admitted guilt to two(2) felonies; Telecommunications Access Violations and Accosting for Immoral Purposes.

*Exhibit F1*

1. In 2007, during the Michigan State Police (MSP) investigation for Accosting, child pornography was found in unallocated (free) space. Temporary internet files and or background downloads had been accessed by the computer and deleted by the same. I honestly did not know they were on the drive in the background floating around. No recovery or "un-delete" programs were installed on my computer. The discovery was shocking and damning, and I became eager to suffer consequences that were conscionable and/or related.
2. "Telecommunications Access Violation" was a brand new law in the State at the time, meant to cover computer and telephone-related crime or illegal activity that came into Michigan from across State lines, i.e.: interstate or international. It provided five (5) times the number of sentencing points than "Accosting" did.
3. The lack of evidence of collecting, viewing, distributing, producing, etc., meant it was inaccessible child porn, however, it had been on a web page or in its background, had been accessed by my computer, and summarily dumped by the system; flushed away to my better knowledge. This gave prosecution and the Michigan State Police pause to draft an appropriate and conscionable punishment as it was obvious I was not a "child porn collector".
4. According to research by Mr. Dobias, most child porn cases are plead to, not tried. More serious ones consider sentencing periods, lighter ones consider different but related charges. Apparently this is commonplace.

Telecommunications Access Violation appeared to apply to both the cell phone and computer issues with this case. It was the opinion of Mark Wisti to me recently (over the phone as a Judge) as well as back in 2007, that pleading to two (2) indictments, both felonies, each one carrying a four year maximum sentence (8 years total) to be served either concurrently or consecutively at Judge Hood's discretion, was adequate and conscionable exposure. This also included the addition of lifetime registry as a sex offender. The prosecution and the State (including the Michigan State Police) had originated the idea of the two (2) charges as their solution. "In exchange for your two (2) guilty pleas, they will not seek any other charges on the body of evidence, nor forward said evidence to any other authority or jurisdiction"; this was communicated to us by the prosecution, the court, and the State Police (Rajala) through Mark Wisti to me. I admitted all guilt, and stated my actions were "grossly inappropriate" in court on sentencing day and I was appreciative of the "opportunity to make amends" by following the court's punishment and went to jail.

For the "Mid-Level View", it was the opinion of Judge Garfield Hood that "The people would not seek any further charges or action against Mr. Welch" based on the entire body of evidence. "Phone, telecommunications devices, computer evidence", and so on were stated in the opinion paragraph statement as the salient features of the Court's (Judge Hood's) ruling. A copy of this transcript is available from Mr. Dobias. The legal exposure from even unallocated (free) space child porn was directly ingrained in the two(2) pleas, the lifetime sex offender registration, and set me up for the three strikes exposure. All felt it had been dealt with.

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F 1

For the "High Level View", the Federal Court of the Eastern District of Wisconsin, the Honorable Patricia Gorence arraigned me on March 4, 2010. After review of the charges and information from my defense attorney at the time, Tom Wilmoth (and associates), a check of my court records and background, Judge Gorence exclaimed, "This sounds like *cause* for double jeopardy" or "this sounds/looks/appears like double jeopardy". Her exact statements can be provided from court records/transcripts from Mr. Dobias. I believe she was the only one in the room to mention it. /

Paraphrased, the concept of *cause* for double jeopardy applies, and not "automatic" double jeopardy because of Dual Sovereignty rules. (Cause for cruel and unusual punishment is another probable, sane inference.) For the immediate view, the present day, and my current case Your Honor, we now come to Your opinion.

Judge Edgars, we often find ourselves changing our own minds without much thought or concern. But, when we are asked to change our opinion from somewhere outside ourselves, we rebel or get upset at the suggestion. We find all manner of excuses to continue thinking as we do; not because we are right, but because we are afraid of being robbed of our own opinion's companionship. I am asking you to consider the following scenario and/or capitulation: Your peers, the three Judges I mentioned, would not bat an eye, nor disagree at all, if you chose to dismiss this case. I am not asking you to change your opinion...only to consider your peers, with three (3) distinctly pertinent views of these cases and this body of evidence. /

- Judge Wisti: Upon his plea to these two (2) felonies; no further charges shall be sought against Mr. Welch. No evidence shall be forwarded to other jurisdictions (such as Federal Indictment). We know about the inaccessible, deleted (free space) child pornography.
- Judge Hood: "No further charges shall be sought against Mr. Welch." (He has admitted guilt to two indictments, eight year felony maximum and lifetime registry as a sex offender.)
- Judge Gorence: This (2010 Federal Case) sounds or looks to have Cause for Double Jeopardy.

In addition, please ask yourself, how many times in your own career have you seen a case come to you under these circumstances? An individual (or individuals) confess to the guilt of wrongdoing, seeks to make amends, pays the price and goes to jail, along with lifetime registry as a sex offender. He then tries to move forward with dignity afterward, by leading a clean life. The way forward is the only way back to innocence and peace. It is only when he is allowed to move on and is suddenly re-prosecuted for the same or similar crime after he already did his time, that the system seems vindictive, bullish and unfair. I am all too aware of the sensitive "powder-keg-like" nature of child porn, but given the whole picture here, when can you say enough is enough? /

This is not like the Rodney King cases, where the police got away with beating up this man horribly. The State trial acquitted them, Our Nation returns massive media attention, and the Federal Courts find them guilty. So much effort had to be extended to meet justice, and it appeared controversial. In my case, Mr. Rajala and Mr. Miller acted with impunity and many have told me, vindictiveness with surreptitious transfer of evidence purported to have been destroyed or at least not egregiously transferred to the Federal system for prosecution the second time. I understand the need for there to be a way to exempt *automatic* double jeopardy...but a case should be able to be dismissed after showing *cause* for it (and/or cruel punishment) and especially after admission of guilt, and punishment was administered. I can only imagine due diligence efforts into the issue by people such as you must come

due  
process



in to establish even a modicum of justice. Serious thought on the impact/consequences of bringing a whole new set of charges, recalls the two guilty pleas added up to an eight year consecutive sentence (max), lifetime sex offender registration, simultaneously addressing illegal Telecommunications Access Violations.

The current course of resolution for my immediate case which is in your hands, is not set in stone. I request most humbly that you consider the opinions of your peers who are most familiar with the case and those Judges who have dealt with this body of evidence both in 2007 and 2010, I do not envy anyone in your position or role. My own common sense and judgment would have difficulty with the morass of input, sifting through both sides without prejudice. I ask that you add these opinions to your conscience to help formulate a more informed perspective.

If I were a coward, or more especially "more guilty than I already was", this second (re-prosecution) case, this immediate, 2010 case against me would not have included a trial. I do not consider myself brave either. There is no bravery when one has no choice. Too many people will suffer if I do not continue to face this issue straight-on, to defend my part of our young sons' lives (ages 3&1)...our family's life. Becoming a father and getting into trouble right before that in 2007 *severely* corrected my will to control my manic episodes (I suffer from severe manic-bipolar disorder, in remission indefinitely with medication), character flaws, and put me on the right path ever since. I deliberately did not take the stand not only to avoid possible further harm, as Mr. Dobias mentioned at pre-trial, but also to avoid constant and inevitable mis-trials.

Any person working in Corrections, any Probation or Parole agent would agree that I have been living and doing everything right as an ex-offender after jail in 2007. Family, work, community involvement, healthy hobbies, etc...and becoming a father especially, I was not at war...not even with myself, when this hit us. I have become a fundamentally different, less selfish, matured man who looked forward to a lifetime of setting my sons a good example as a father. On March 4, 2010, ICE agents scanned our computers and found nothing.

From one end of life to another, we carry with us all that we have done. When met by mistakes, there is nothing to be gained by running away. Facing my actions, my character failure straight on by admitting wrongdoing, paying penance...grants me forgiveness for it, but it does not expunge the past. The man I was still is within me, repressed with extreme prejudice, by the man I have struggled to become. A better husband, a father, a Professional Engineer, an upright citizen. The past has no power over my progress. It has been lived, it is already behind me.

I am glad Mr. Lochner and Mr. Dobias got their day in court...mine was three and a half years ago. For the record, we tried to not have disgusting and disturbing images shown to innocent jury members, by not contesting their validity or existence, but rather contesting "knowing possession". It is unfortunate Prosecution decided to do that.

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Those are the facts, not my opinion. My opinion is my family and I have suffered enough. Every activity, decision, thought, idea, or concern I've had over the past three and a half years orbits around my two sons and my wife. I serve and protect them with my life. Enough is enough. My other

observation/opinion is the child pornography was strangely not as important to the Prosecution as a crime, nor a moral issue for them:

One of the Prosecution's eleventh-hour plea offers to avoid trial efforts on their part was *dropping* the child pornography charge altogether (after they independently verified its unallocated "free space" reality of not being saved files) in favor of re-prosecuting on my 2007 "Accosting for Immoral Purposes" conviction. ( i.e. Instead of re-prosecuting me on a related charge with the same body of evidence, they wanted to re-prosecute on the exact same charge). They still threaten to bring these charges on top of what they are doing right now. If that is *not* acting with impunity, abusing the protection and privilege that the laws of dual sovereignty affords them, I do not know what is. If it is not, then Justice truly is the will of the stronger. Again, I can only hope your due diligence oversight and guidance are something you can provide them. Enough is enough if one considers your peers' comments and opinions as being germane. I am not one bit "more guilty than I already was", even if Mr. Dobias' strategy could not speak to that, at our most recent battle at trial on October 4&5, but it is the truth. It was but one battle in a war for fairness.

I believe, truthfully that they are simply not able to let it go on their own. I have seen someone not be able to let go of a live circuit after >16mA flows through their digits, relieving them of all voluntary control. I absolutely believe this psychological obsession has them in such a charged-up state, they could not let go if they wanted to. They need someone to turn off the circuit, thus saving them for more worthy pursuits, like *new* crimes.

Respectfully,



Eric D. Welch, P.E.

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the situation is for want of it. Not that I have earned it with these letters, but because my actions of remorseful volunteerism and debt repayment have been followed by the integrity of action in recovery to a better way of living. Here I beg for justice. Here I beg that you dismiss this case (please see encl.)

Eric Welch

p.s. I personally consulted no attorney while composing these letters. I wanted them to be 100% my own thoughts, feelings, and so on.

As an engineer, I know that the more eyes on a project, the fewer mistakes, so Please Forgive anything that may appear disrespectful, or in error.